

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

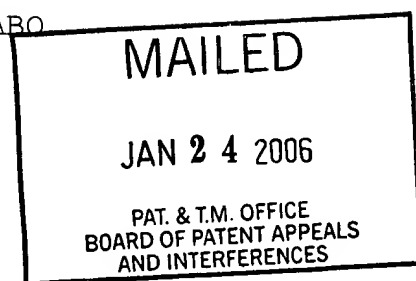
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Ex parte BRYAN S. WANG and CARL O. PARO

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Application No. 09/636,243

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ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

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This application was received at the Board of Patent Appeals and Interferences on December 28, 2005. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

On November 14, 2005, appellants filed a reply brief in response to the Examiner's answer mailed September 9, 2005. However, there is no indication on the record whether or not the examiner has responded to the reply brief. Section § 1208.03 of

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the Manual of Patent Examining Procedure (8<sup>th</sup> ed., Aug. 2001)  
states:

[A]ppellant may file a reply brief as a matter of right within 2 months from the mailing date of the examiner's answer. . . . The primary must then either: (A) acknowledge receipt and entry of the reply brief by using form paragraph 12.47 on form PTOL-90; or (B) reopen prosecution to respond to the reply brief. See MPEP § 1208.02 [emphasis added].

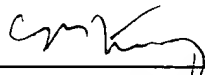
The examiner should also consider the timeliness of the reply brief.

Accordingly, it is

ORDERED that this application be returned to the examiner: 1) for proper response to the reply brief filed November 14, 2005; and 2) for such further action as may be appropriate.

It is important that the Board of Patent Appeals and Interferences be informed promptly of any action affecting the status of this appeal (i.e., abandonment, issue, reopening prosecution).

BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Application No. 09/636,243

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